

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of SOUTHERN CALIFORNIA GAS COMPANY In Compliance with Resolution G-3334 For a System of Firm, Tradable Receipt Point Capacity Rights and Related Provisions. (U 904 G.)

Application 03-06-040
(Filed June 30, 2003)

**ADMINISTRATIVE LAW JUDGE'S RULING
DENYING MOTION FOR AN ORDER SHORTENING TIME
FOR RESPONSE TO PETITION FOR MODIFICATION AND
FOR SHORTENING OF COMMENT PERIOD**

Summary

Pursuant to Rule 45(h) of the Commission's Rules of Practice and Procedure (Rules), this ruling addresses the October 23, 2003 motion of the Southern California Generation Coalition, the Indicated Producers, Coral Energy Resources, L.P., Cabrillo I, LLC, Cabrillo II, LLC, El Segundo Power, LLC, Long Beach Generation, LLC, the Department of General Services, and The Utility Reform Network (Joint Parties) for an Order Shortening Time for Response to Petition for Modification and for Shortening of Comment Period (Motion).

Procedural Background

On October 23, 2003, Joint Parties tendered to this Commission's docket office for filing the subject Motion and an accompanying "Petition of the Joint Parties for Modification of Decision 01-12-018 and Resolution G-3334" (Petition) in both this docket and Investigation (I.) 99-07-003. Pursuant to Rule 2.1(b) of the Commission's Rules, separate documents must be used to ask the Commission or Administrative Law Judge (ALJ) to take essentially different actions. In their

petition, Joint Parties requested two separate actions. In email and telephone conversations, the Commission's docket office staff communicated with Joint Parties concerning the above violation of Rule 2.1(b). Consequently, Joint Parties representative authorized the docket office to strike references to the Resolution G-3334 and treat the Petition as a petition to modify Decision (D.) 01-12-018.

As indicated above, Joint Parties tendered for filing their Petition in both this docket and I.99-07-003. D.01-12-018 was issued in docket I.99-07-003, but pursuant to Resolution G-3334, the Commission is implementing D.01-12-018 in Application (A.) 03-06-040. In support of their Petition, Joint Parties rely on portions of the record developed in A.03-06-040. Joint Parties cite and attach as part of their Petition two reports developed in meet and confers in A.03-06-040. Furthermore, the issues raised in the Petition are closely related to the issues raised in A.03-06-040 and the record in A.03-06-04 is more recent than I.99-07-003. I also observe that under recently enacted statute Assembly Bill 1735, the Commission is required to close dockets within 18 months. Resolving Joint Parties petition in I.99-07-003 might unnecessarily delay closure of that docket.

Thus, it seems to me that petitioners are relying on events outside the record of I.99-07-003 and on reports filed in A.03-06-040; however, to the extent Joint Parties believe evidence in the record of I.99-07-003 is essential, Joint Parties may pursuant to Rule 72 move to offer such evidence into the record of this proceeding (A.03-06-040). Consequently, I consulted with the Chief ALJ, who thereafter directed docket office to strike Joint Parties reference to caption I.99-07-003 and file Joint Parties Petition and Motion under the remaining caption A.03-06-040.

Discussion

In their Motion, Joint Parties request, a ruling (1) to shorten time to file responses to the Motion, and (2) to shorten the time to file responses to the Petition accompanying the Motion.

In their Motion, Joint Parties assert that the accompanying Petition describes the changed circumstances for why the Commission should vacate D.01-12-018. Further, Joint Parties argue that granting the Petition will allow the Commission to identify any policy objectives stemming from events intervening since the execution of the Comprehensive Settlement Agreement (CSA). Joint Parties also take issue with the scope of issues to be considered in A.03-06-040 as set forth in Commissioner Brown's Scoping Memo. Joint Parties believe that a process for exploring modifications to the CSA is needed. Joint Parties also make a broad reference to the accompanying Petition as support for why the Motion should be granted.

Joint Parties do not state a valid reason indicating why time for filing responses to their Motion and Petition should be shortened; rather Joint Parties' Motion argues why the CSA should not be implemented. Joint Parties' Motion does not address the fact that the CSA is currently not being implemented and consequently why a need or urgency exists to shorten time. More importantly, Joint Parties' Motion does not address the most pertinent issue which is that Joint Parties' proposed schedule would overlap with the hearing schedule in A.03-06-040. Under Joint Parties' proposed schedule, responses to the Petition would be due on the last day of hearings in A.03-06-040.

Contrary to Joint Parties' request, an extension of time to respond to the Petition is more appropriate than a shortening of time to respond given the strain on parties' resources in preparing for and participating in hearings in

A.03-06-040. Consequently, the response date for Joint Parties' Petition should be extended to December 5, 2003. This extension of time should allow interested parties sufficient time to address Joint Parties' Petition, to actively participate in hearings in A.03-06-040, and to also focus on preparing opening and reply briefs due on November 17 and November 24, respectively.

IT IS RULED that:

1. Southern California Generation Coalition, the Indicated Producers, Coral Energy Resources, L.P., Cabrillo I, LLC, Cabrillo II, LLC, El Segundo Power, LLC, Long Beach Generation, LLC, the Department of General Services, and The Utility Reform Network (Joint Parties) motion to shorten time is denied.

2. The filing date for responses to Joint Parties Petition for Modification of Decision 01-12-018 is extended to December 5, 2003.

Dated October 28, 2003, at San Francisco, California.

/s/ JOSEPH R. DEULLOA BY
LYNN T. CAREW

Joseph R. DeUlloa
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail, and by electronic mail to the parties to which an electronic mail address has been provided, this day served a true copy of the original attached Administrative Law Judge's Ruling Denying Motion For An Order Shortening Time For Response To Petition For Modification And For Shortening Of Comment Period on all parties of record in this proceeding or their attorneys of record.

Dated October 28, 2003, at San Francisco, California.

/s/ JANET V. ALVIAR

Janet V. Alviar

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.